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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,179	12/06/2003	Yehuda Azenkot	034704-000049	8590
7590 Thelen Reid & Priest LLP Robert E. Krebs P.O. Box 640640 San Jose, CA 95164-0640			EXAMINER JUNTIMA, NITTAYA	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 12/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

5

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,179	<b>Applicant(s)</b> AZENKOT ET AL.	
	<b>Examiner</b> Nittaya Juntima	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the Response to Election/Restriction filed on 11/1/2007.
2. Claims 1 and 2 are pending, claims 3-24 were withdrawn from consideration.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities:
  - in claim 1, lines 2-3, 9, "upstream channels or logical channels" should be changed to "upstream channels" (or "upstream logical channels" to be consistent with the specification on page 2, lines 11-13) since only upstream channels are referenced to on lines 10s, 13 of claim 1 and on line 6 of claim 2;

line 4, "of CM" should be changed to "of CMs";

line 5, "to a a cable" should be changed to "to a cable";

lines 12 and 13, "modems" should be changed to "CMs" for consistency purposes.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Grimwood (US 6,459,703 B1).

Regarding claim 1, as shown in Fig. 2A, Grimwood teaches a process, comprising:

- 1) Gathering data about each cable modem (CM) in a group of CMs coupled to a cable modem termination system (CMTS) through a distributed transmission system (Fig. 1). Step 50 shows that upstream bandwidth requests from both DOCSIS 1.0 and 1.2 modems are received at CMTS (col. 9, lines 52-55).
- 2) Dividing said group of CMs up into logical groups based upon CM type (step 50, CMTS uses SIDs in bandwidth requests to divide modems into TDAM group and SCDMA group, col. 9, lines 55-58).
- 3) Creating an upstream channel on said distributed transmission system for each logical group of CMs, each upstream channel having transmission characteristics optimized for a particular logical group of CMs (step 56, an upstream logical channel is created for each group of TDMA and SCDMA modems using a UCD message that defines the symbol rate, the center frequency and controlling for each type of TDMA and SCDMA modems, col. 10, lines 31-37).
- 4) Assigning the CMs in each logical group to the upstream channel created for that logical group (step 56, the UCD messages assign the modems to the appropriate upstream logical channels based on the modem type, col. 10, lines 37-42).

***Allowable Subject Matter***

6. Claim 2 is objected to as being dependent upon a rejected base claim, but would be

allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 8:00 A.M - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nittaya Juntima  
December 7, 2007



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